



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 870

Commodity Credit Corporation

7 CFR Part 1427

[Doc. No. AMS-LRRS-21-0047]

Reorganization and Transfer of Regulations

AGENCY: Agricultural Marketing Service; Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule transfers regulations pertaining to the Economic Adjustment Assistance for Textile Manufacturers program from the Commodity Credit Corporation (CCC) to the Agricultural Marketing Service (AMS) to reflect changes in the organizational structure and delegated authorities within the United States Department of Agriculture (USDA). This action is necessary to enable the AMS Administrator to issue, maintain, and revise as necessary regulations related to programs under the AMS Administrator's delegated authority.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Laurel May, Regulatory Analyst, Legislative and Regulatory Review Staff, Office of the Administrator, AMS, USDA; Telephone: (202) 384-2975, or Email: Laurel.May@usda.gov.

SUPPLEMENTARY INFORMATION: Congress directed the Secretary of Agriculture (Secretary) to provide economic adjustment assistance to domestic users of upland cotton under the Economic Adjustment Assistance to Users of Upland Cotton

program in section 1207(c) of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-234; May 22, 2008). Under the program domestic users of upland cotton may qualify for financial assistance that can be used to acquire, construct, install, modernize, develop, convert, or expand land, plant, buildings, equipment, facilities, or machinery. Payments for such assistance are issued by CCC. Section 1203(b) of the Agriculture Improvement Act of 2018 (Pub. L. 115-334; December 20, 2018) renamed the program “Economic Assistance Adjustment to Textile Mills” (EAATM). Regulations implementing the EAATM are found at 7 CFR part 1427, in subpart C, in §§ 1427.100 to 1427.105.

In a memorandum dated July 1, 2019,¹ the Secretary redelegated authority to administer EAATM from the Farm Service Agency to the Agricultural Marketing Service (AMS). A final rule published October 15, 2020 (85 FR 65500), amended 7 CFR part 2 to reflect the redelegation. Amended § 2.79(a)(23) authorizes the AMS Administrator to administer the EAATM program (7 U.S.C. 9037(c)). The redelegation of authority necessitates the transfer of corresponding regulations to AMS, giving the AMS Administrator authority to issue, maintain, and revise the regulations pertaining to EAATM. This final rule completes the necessary transfer.

Overview of Changes

Currently, Title 7, Chapter XIV, part 1427 of the Code of Federal Regulations (CFR) contains the EAATM regulations (in §§ 1427.100 to 1427.105), under CCC administration. This final rule removes the EAATM regulations from 7 CFR part 1427 and adds them in a new part 870 – Economic Adjustment Assistance to Textile Mills – to 7 CFR chapter VIII, Subchapter B. Currently Subchapter B is titled “Regulations for Warehouses” and contains part 869 – Regulations for the United States Warehouse Act

¹ Secretary's Memorandum 1076-030 (July 1, 2019), available at <https://www.ocio.usda.gov/document/secretarys-memorandum-1076-030>.

(USWA). This final rule revises the title for Subchapter B to read “Fair Trade Practices” to reflect the delegation of administrative authority for both USWA and EAATM activities to the AMS Administrator. The Deputy Administrator of AMS’s Fair Trade Practices Program (FTPP) oversees USWA and EAATM activities for the Administrator. Finally, this rule makes a conforming change to the text of the EAATM regulations to reflect the program’s revised name.

Classification

This final rule is administrative in nature and reflects changes in USDA’s organization. Accordingly, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective in fewer than 30 days after publication in the **Federal Register**. Therefore, this final rule is effective upon publication.

Additionally, this rule is exempt from the provisions of Executive Order 12866, as it is limited to agency management. This action is not a rule as defined by the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*, and thus is exempt from the provisions of those Acts. This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*) provides exemptions for rules "of particular applicability;" "relating to agency management or personnel;" or "of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.” This action qualifies for this exemption.

AMS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

List of Subjects

7 CFR Part 870

Cotton, Payments, Reporting and recordkeeping, Textile mills.

7 CFR Part 1427

Cotton, Cottonseeds, Loan programs-agriculture, Packaging and containers, Price support programs, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

For the reasons stated in the preamble, as authorized by the Secretary's Memorandum implementing the Agriculture Improvement Act of 2018, dated July 1, 2019, the Department of Agriculture amends 7 CFR chapters VIII and XIV as follows:

TITLE 7 – AGRICULTURE

CHAPTER VIII – AGRICULTURAL MARKETING SERVICE (FEDERAL GRAIN INSPECTION SERVICE, FAIR TRADE PRACTICES PROGRAM), DEPARTMENT OF AGRICULTURE

Subchapter B – Fair Trade Practices

1. Under the authority of 7 CFR 2.22(a)(1), revise the heading of subchapter B to read as set forth above.

2. Add part 870 to read as follows:

PART 870 – ECONOMIC ASSISTANCE ADJUSTMENT FOR TEXTILE MILLS

Sec.

870.1 Applicability.

870.3 Eligible upland cotton.

870.5 Eligible domestic users.

870.7 Upland cotton Domestic User Agreement.

870.9 Payment.

Authority: 7 U.S.C. 9037(c).

§ 870.1 Applicability.

(a) These regulations specify the terms and conditions under which the Commodity Credit Corporation (CCC) will make payments to eligible domestic users who have entered into an Upland Cotton Domestic User Agreement with CCC to participate in the upland cotton domestic user program.

(b) CCC will specify the forms to be used in administering the Economic Adjustment Assistance for Textile Mills program.

§ 870.3 Eligible upland cotton.

a) For purposes of this subpart, eligible upland cotton is baled upland cotton, regardless of origin, that is opened by an eligible domestic user, and is either:

(1) Baled lint, including baled lint classified by USDA's Agricultural Marketing Service as Below Grade;

(2) Loose samples removed from upland cotton bales for classification purposes that have been rebaled;

(3) Semi-processed motes that are of a quality suitable, without further processing, for spinning, papermaking, or production of non-woven fabric; or

(4) Re-ginned (processed) motes.

(b) Eligible upland cotton must not be:

(1) Cotton for which a payment, under the provisions of this subpart, has been made available;

(2) Raw (unprocessed) motes, pills, linters, or other derivatives of the lint cleaning process; or

(3) Textile mill wastes.

§ 870.5 Eligible domestic users.

(a) For purposes of this subpart, a person regularly engaged in the business of opening bales of eligible upland cotton for the purpose of spinning, papermaking, or processing of non-woven cotton fabric in the United States, who has entered into an

agreement with CCC to participate in the upland cotton user program, will be considered an eligible domestic user.

(b) Applications for payment under this subpart must contain documentation required by the provisions of the Upland Cotton Domestic User Agreement and other instructions that CCC issues.

§ 870.7 Upland cotton Domestic User Agreement.

(a) Payments specified in this subpart will be made available to eligible domestic users who have entered into an Upland Cotton Domestic User Agreement with CCC and who have complied with the terms and conditions in this subpart, the Upland Cotton Domestic User Agreement, and instructions issued by CCC.

(b) Upland Cotton Domestic User Agreements may be obtained from the Warehouse and Commodity Management Division, PO Box 419205, Stop 9148, Kansas City, MO 64141-6205. In order to participate in the program authorized by this subpart, domestic users must execute the Upland Cotton Domestic User Agreement and forward the original and one copy to KCCO.

§ 870.9 Payment.

(a) The payment rate for purposes of calculating payments as specified in this subpart is 3 cents per pound.

(b) Payments specified in this subpart will be determined by multiplying the payment rate, of 3 cents per pound, by

(1) In the case of baled upland cotton, whether lint, loose samples or reginned motes, but not semi-processed motes, the net weight of the cotton used (gross weight minus the weight of bagging and ties);

(2) In the case of unbaled reginned motes consumed, without rebaling, for an end use in a continuous manufacturing process, the weight of the reginned motes after final cleaning; and

(3) In the case of semi-processed motes which are of a quality suitable, without further processing, for spinning, papermaking, or manufacture of non-woven cotton fabric, 25 percent of the weight (gross weight minus the weight of bagging and ties, if baled) of the semi-processed motes; provided further, that with respect to semi-processed motes that are used prior to August 18, 2010, payment may be allowed by CCC in its sole discretion at 100 percent of the weight as determined appropriate for a transition of the program to the 25 percent factor.

(c) In all cases, the payment will be determined based on the amount of eligible upland cotton that an eligible domestic user consumed during the immediately preceding calendar month. For the purposes of this subpart, eligible upland cotton will be considered consumed by the domestic user on the date the bale is opened for consumption, or if not baled, the date consumed, without further processing, in a continuous manufacturing process.

(d) Payments specified in this subpart will be made available upon application for payment and submission of supporting documentation, as required by the CCC-issued provisions of the Upland Cotton Domestic User Agreement.

(e) All payments received by the eligible domestic user of upland cotton must be used for purposes specified in 7 U.S.C. 9037(c)(3), which include but are not limited to, acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities, or machinery. Such capital expenditures must be directly attributable and certified as such by the user for the purpose of manufacturing upland cotton into eligible cotton products in the United States.

CHAPTER XIV – COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

PART 1427 – COTTON

3. The authority citation for part 1427 continues to read as follows:

Authority: 7 U.S.C. 7231-7237, 7931-7936, 9011, and 9031-40, 15 U.S.C. 714b
and c.

Subpart C – [Removed and Reserved]

4. Remove and reserve subpart C, consisting of §§ 1427.100 through 1427.105.

Mae Wu, Deputy Under Secretary,
Marketing and Regulatory Programs.

[FR Doc. 2021-20380 Filed: 9/30/2021 8:45 am; Publication Date: 10/1/2021]